

Message Text

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TO AMEMBASSY GEORGETOWN PRIORITY

C O N F I D E N T I A L STATE 304848

E.O 11652: GDS

TAGS: PFOR, MOPS, CU, GY, AO

SUBJECT:CUBAN USE OF TIMEHRI AIRFIELD

REFERENCE: GEORGETOWN 2193

1. FOLLOWING GUIDANCE WAS PREPARED FOR RESPONSE TO QUESTIONS BY BARBADIAN AUTHORITIES CONCERNING CUBAN AIRLIFT AND CHICAGO CONVENTION. SINCE GUYANA ALSO IS PARTY TO CHICAGO CONVENTION, YOU MAY FIND THIS GUIDANCE USEFUL, ESPECIALLY IF GOG ATTEMPTS TO JUSTIFY ITS COOPERATION WITH CUBA ON GROUNDS OF CHICAGO CONVENTION AND, QUOTE, CIVIL, UNQUOTE, CHARACTER OF CUBAN FLIGHTS VIA TIMEHRI.

2. DEPARTMENT'S INTERPRETATION IS THAT TRANSIT RIGHTS UNDER CHICAGO CONVENTION DO NOT APPLY TO STOPS OF ALL, REPEAT ALL, AIRCRAFT. MOST IMPORTANTLY, CHAPTER I, ARTICLE 3 OF CONVENTION MAKES IT CLEAR THAT THE CONVENTION DOES NOT APPLY TO AIRCRAFT USED IN MILITARY SERVICES AND THAT SUCH AIRCRAFT REQUIRE SEPARATE AUTHORIZATION TO OVERFLY THE TERRITORY OF OTHER STATES. FURTHERMORE, THERE ARE RESTRICTIONS ON THE USE OF CIVIL

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AIRCRAFT THAT WOULD OTHERWISE QUALIFY UNDER THE TERMS

OF THE CONVENTION. IF THEY CARRY, QUOTE, MUNITIONS OF

WAR OR IMPLEMENTS OF WAR, UNQUOTE, (CHAPTER V, ARTICLE 35(A)). IN LIGHT OF THESE PROVISIONS, CHICAGO CONVENTION DOES NOT OPERATE TO REQUIRE GOG TO ALLOW THE CUBAN FLIGHTS TO OVERFLY OR TO LAND. SOME ADDITIONAL PERMISSION IS REQUIRED.

3. WE ARE NOT FAMILIAR WITH THE SPECIFIC TERMS OF THE BILATERAL AGREEMENT BETWEEN CUBA AND GUYANA. HOWEVER, DEPENDING ON THE EXACT TERMS AND THE NEGOTIATING HISTORY OF THE AGREEMENT, THE PRINCIPLES OF THE CHICAGO CONVENTION CITED IN PARA 2 MAY RESTRICT THE EXERCISE OF CERTAIN RIGHTS UNDER THIS BILATERAL AGREEMENT. IT IS QUITE POSSIBLE THAT NEITHER PARTY INTENDED TO GRANT THE RIGHT TO THE OTHER PARTY TO OPERATE MILITARY FLIGHTS INTO OR OVER ITS TERRITORY. ROBINSON

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